

California Regional Water Quality Control Board  
North Coast Region

Cleanup and Abatement Order No. 98-79

For

Empire Building Associates  
Bank of America  
Frank Hoffman d.b.a. Frank Hoffman Investment Company

Sonoma County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. Empire Building Associates own the Empire Building located at 37 Old Courthouse Square in Santa Rosa, where a leaking underground oil tank was discovered in 1991 (Attachment A). Bank of America owned the Empire Building until 1960. Frank Hoffman d.b.a. Frank Hoffman Investment Company owns properties adjacent to the Empire Building where substantial oil contamination has been discovered in soil and groundwater. A chronology of ownership, responsibility and Regional Water Board involvement with the site is described in Findings 1 through 10 of Cleanup and Abatement Order No. 92-138, which are incorporated herein by reference. Empire Building Associates, Bank of America, and Frank Hoffman d.b.a. Frank Hoffman Investment Company are hereinafter referred to as the dischargers.
2. Cleanup and Abatement Order Nos. 91-104, 91-129 and 92-138 were issued to expedite the cleanup of soil and groundwater contamination at the site. A soil and groundwater remediation system was installed and operated at the site from about 1994 to 1997. Bank of America has proposed modifying the remediation system for more effective removal of free product.
3. Free product is present in two groundwater extraction wells and two vapor extraction wells, up to about three inches in thickness during the last monitoring in May of 1998. Total petroleum hydrocarbons as gasoline are present in groundwater at 840 ppb. Total petroleum hydrocarbons as diesel are present in groundwater at 49,000 ppb. Benzene is present in groundwater at 3.5 ppb. The groundwater also contains low levels of toluene, ethylbenzene and xylenes. MTBE does not appear to be associated with this petroleum hydrocarbon release. The levels of free product and dissolved petroleum hydrocarbons exceed narrative standards and are toxic to aquatic organisms.

4. Free product is migrating into the B-Street storm drain adjacent to this site, which discharges to Santa Rosa Creek. Free product is present in the storm drain and is carried through the storm drain and discharged to Santa Rosa Creek. Containment structures have been constructed at the outfall to Santa Rosa Creek to capture the free product. Some free product and dissolved petroleum hydrocarbon constituents continue to discharge to Santa Rosa Creek. Bank of America has proposed to clean the storm drain and grout leaking joints that allow free product to seep into the storm drain.
5. The Water Quality Control Plan for the North Coast Region (Basin Plan) was adopted by the Regional Water Board in 1988 and was amended thereafter. The Basin Plan designates beneficial uses of water and includes water quality objectives and receiving water limitations.
6. The site is located in the Russian River watershed. Discharges from the site are impacting groundwater and Santa Rosa Creek, a tributary to the Russian River. Beneficial uses of the Russian River include:
  - a. municipal and domestic supply
  - b. agricultural supply
  - c. industrial service supply
  - d. industrial process supply
  - e. groundwater recharge
  - f. navigation
  - g. hydropower generation
  - h. water contact recreation
  - i. non-contact water recreation
  - j. warm freshwater habitat
  - k. cold freshwater habitat
  - l. wildlife habitat
  - m. fish migration
  - n. fish spawning
  - o. commercial and sport fishing
  - p. estuarine habitat
  - q. aquaculture
7. Beneficial uses of groundwater include:
  - a. municipal and domestic supply
  - b. agricultural supply
  - c. industrial service supply
  - d. industrial process supply

8. The petroleum discharges to groundwater and surface water have caused nuisance and pollution, as defined by Section 13050 of the California Water Code.
9. The dischargers have caused or permitted, cause or permit, or threaten to cause or permit waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, and shall, upon order of the Regional Water Board, clean up the waste or abate the effects of the waste, or in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing clean up and abatement efforts.
10. This enforcement action is being taken for protection of the environment and to enforce a general standard as set forth in the Basin Plan. Therefore, this enforcement action is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et. seq.) in accordance with Sections 15308 and 15321, Chapter 3, Title 14, California Code of Regulations.

**THEREFORE, IT IS HEREBY ORDERED** that, Cleanup and Abatement Order Nos. 91-104, 91-129 and 92-138 are rescinded except for enforcement purposes and, pursuant to California Water Code Sections 13267 and 13304, the dischargers shall cleanup and abate the discharge and threatened discharge and mitigate nuisance conditions. The following investigation and cleanup tasks shall be completed under the direction of a California registered geologist or registered civil engineer experienced in soil and groundwater pollution investigation and cleanup. All work at the site shall be conducted in accordance with all local ordinances, and all necessary permits shall be acquired.

1. The plan for cleaning and grouting of the storm drain shall be submitted to the Regional Water Board by July 31, 1998. The plan shall be implemented within 30 days of Regional Water Board concurrence.
2. The Corrective Action Plan dated June 22, 1998, prepared by Geomatrix, shall be implemented by September 30, 1998.
3. The report of completed field work shall be submitted to the Regional Water Board by November 30, 1998.
4. The dischargers shall comply with Monitoring and Reporting Program No. 98-80.
5. The dischargers shall submit brief monthly progress reports describing all actions taken to comply with this order. Monthly reports shall be submitted by the 15th day of the month following the monthly reporting period.

If, for any reason, the dischargers are unable to perform any activity or submit any document in compliance with the schedule set forth herein or in compliance with any work schedule submitted pursuant to this Order and concurred in by the Executive Officer, the dischargers may request, in writing, an extension of time as specified. Extension requests must be submitted at least five days in advance of the due date and shall include justification for the delay. An extension may be granted for good cause, in which case this Order will be revised accordingly.

Ordered by \_\_\_\_\_

Lee A. Michlin  
Executive Officer

July 17, 1998